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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,558	12/14/2001	William P. Price	A0819	3759
35219 7590 04/06/2009 WESTERN DIGITAL TECHNOLOGIES, INC. ATTN: LESLEY NING 20511 LAKE FOREST DR. E-118G LAKE FOREST, CA 92630				
EXAMINER				
LASTRA, DANIEL				
ART UNIT		PAPER NUMBER		
3688				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/022,558

Applicant(s)

PRICE ET AL.

Examiner

DANIEL LASTRA

Art Unit

3688

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 11-49 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11-49 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date ____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

1. Claims 1-9 and 11-49 have been examined. Application 10/022,558 (AUDIOVISUAL SYSTEM AND METHOD FOR DISPLAYING SEGMENTED ADVERTISEMENTS TAILORED TO THE CHARACTERISTIC VIEWING PREFERENCES OF A USER) has a filing date 12/14/2001.

Response to Amendment

2. In response to Non Final Rejection filed 10/22/2008, the Applicant filed a Request for Reconsideration on 01/09/2009.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9 and 11-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cristofalo (US 2002/0152117) in view of Klarfeld (US 2006/0212904).

Claim 1, Cristofalo teaches:

An audiovisual system for use with a display device for displaying an audiovisual advertisement to a user, the audiovisual system comprising:

a storage subsystem adapted to receive and store audiovisual advertising segments and to retrieve and transmit stored audiovisual advertising segments, each

audiovisual advertising segment having metadata indicative of the audiovisual advertising segment (see paragraphs 17, 34, 35 and 47)

a preference determination module coupled to the storage subsystem, the preference determination module responsive to user input and to the metadata to generate one or more user profiles, each user profile indicative of characteristic viewing preferences of a corresponding user (see paragraphs 17, 34, 35 and 47) the user profile comprising an interest parameter indicative of an estimated time interval during which the corresponding user is predicted to continue viewing the audiovisual advertisement (see paragraph 50). Cristofalo determines whether a user's profile (i.e. Kansas state fan) predicts that a user would continue viewing a program and would not change channels (i.e. national championship) in order to target ads during the time interval of viewing said program (see paragraph 50). and

a system controller coupled to the storage subsystem, the system controller responsive to the metadata and to the user profile corresponding to the user to form a complete multi-segment audiovisual advertisement comprising a plurality of audiovisual advertisement segments by selecting and retrieving a plurality of stored audiovisual advertising segments from the storage subsystem based in response to the interest parameter corresponding to the user and dynamically assembling the retrieved plurality of stored audiovisual advertising segments in an appropriate order with the segments sequential to one another to form the complete multi-segment audiovisual advertisement (see paragraph 32, 50). Cristofalo teaches assembling or synchronizing the plurality of media objects in an appropriate order with the segments sequential to

one another (i.e. synchronizing the audio-visual media objects) to form a multi-segment audiovisual advertisement (i.e. talking head actually speaks the word in the plurality of media objects).

wherein each of the segments is directed to a common subject of the multi-segment advertisement (see paragraphs 17, 34, 35 and 47); whereby the plurality of stored audiovisual advertising segments is selected to tailor the complete multi-segment audiovisual advertisement to the characteristic viewing preferences of the user (see paragraphs 17, 34, 35 and 47).

Cristofalo does not teach wherein the metadata is indicative of the length of the audiovisual advertising segment and retrieving a plurality of stored audiovisual advertising segments from the storage subsystem based on the lengths of the stored audiovisual advertising segments. However, Klarfeld teaches that if the program being watched by a viewer contains information regarding the length of the commercial break, the preference agent may select stored ads of the same type (i.e. same viewer's demographic metadata) of appropriate length (i.e. advertising segments) to insert in the allotted time slot (see paragraph 241). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Cristofalo's metadata would include the length of an advertising segment, as taught by Klarfeld in order to synchronize the targeting of ads.

Claim 2, Cristofalo fails to teach:

wherein the metadata is indicative of the length of the audiovisual advertising segment. However, Klarfeld teaches that if the program being watched by a viewer

contains information regarding the length of the commercial break, the preference agent may select stored ads of the same type (i.e. same viewer's demographic metadata) of appropriate length (i.e. advertising segments) to insert in the allotted time slot (see paragraph 241). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Cristofalo's metadata would include the length of an advertising segment, as taught by Klarfeld in order to synchronize the targeting of ads.

Claim 3, Cristofalo teaches:

wherein the metadata is indicative of subject matter of the audiovisual advertising segment (see paragraph 47).

Claim 4, Cristofalo teaches:

wherein the metadata comprises at least one presentation directive corresponding to the audiovisual advertising segment (see paragraphs 17 and 34).

Claim 5, Cristofalo teaches:

wherein the presentation directive comprises at least one guideline regarding a sequence order of the dynamically assembled plurality of stored audiovisual advertising segments (see paragraphs 34 and 47).

Claim 6, Cristofalo teaches:

wherein the user profile comprises demographic information regarding the user (see paragraph 34).

Claim 7, Cristofalo teaches:

wherein the user profile comprises information regarding subject matter preferences of the user (see paragraph 34).

Claim 8, Cristofalo teaches:

wherein the user profile comprises information regarding genre preferences of the user (see paragraph 34).

Claim 9, Cristofalo teaches:

wherein the user profile comprises information regarding performer preferences of the user (see paragraph 34).

Claim 11, Cristofalo teaches:

wherein the user input comprises a plurality of viewing decisions by the user and the interest parameter is generated by the preference determination module, the preference determination module utilizing a statistical analysis of the plurality of viewing decisions to generate the interest parameter (see paragraph 7).

Claim 12, Cristofalo teaches:

wherein the preference determination module is further responsive to electronic program guide information to generate the interest parameter (see paragraph 47).

Claim 13, Cristofalo teaches:

wherein the preference determination module is further responsive to current time of day information to generate the interest parameter (see paragraph 7).

Claim 14, Cristofalo teaches:

wherein the preference determination module is further responsive to current date information to generate the interest parameter (see paragraph 7).

Claim 15, Cristofalo teaches:

wherein the audiovisual advertisement comprises a first stored audiovisual advertising segment and a second stored audiovisual advertising segment, the first audiovisual advertising segment comprising a primary message to be displayed to the user during the estimated time interval, the second audiovisual advertising segment comprising a secondary message to be displayed to the user when the user continues viewing after the estimated time interval (see paragraph 47).

Claim 16, Cristofalo teaches:

wherein the primary message is self contained (see paragraph 47).

Claim 17, Cristofalo teaches:

wherein the primary message and the secondary message are related (see paragraph 47).

Claim 18, Cristofalo teaches:

wherein the secondary message is a continuation of the primary message (see paragraph 47).

Claim 19, Cristofalo teaches:

wherein the secondary message is self-contained (see paragraph 47).

Claim 20, Cristofalo teaches:

wherein the primary message comprises a beginning portion and a punch-line portion (see paragraph 47).

Claim 21, Cristofalo teaches:

wherein the secondary message comprises an inducement to the user to continue viewing the secondary message (see paragraph 47).

Claim 22, Cristofalo fails to teach:

wherein the inducement comprises a reward to the user for continuing to view the secondary message. However, Klarfeld teaches said limitation in paragraph 47. Therefore, It would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Klarfeld financial incentive given to users for watching advertisements (see paragraph 247) would be award points, lottery tickets or clues as it is old and well known to do so.

Claims 23-25, Klarfeld fails to teach:

wherein the reward comprises points to be redeemed or a lottery or towards the user solving a puzzle or mystery. However, Official Notice is taken that it is old and well known in the promotion art to know that advertisers reward users with award points, lottery or treasure hunting clues for viewing said advertisers' ads. It would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Klarfeld financial incentive given to users for watching advertisements (see paragraph 247) would be award points, lottery tickets or clues as it is old and well known to do so.

Claim 26, Cristofalo teaches:

wherein the audiovisual advertisement is viewed by the user in conjunction with viewing an audiovisual program and the inducement comprises information useful towards the user enjoying the audiovisual program (see paragraph 47).

Claim 27, Cristofalo teaches:

wherein the audiovisual advertisement is viewed by the user in conjunction with viewing an audiovisual program and the inducement comprises information useful towards the user understanding the audiovisual program (see paragraph 47).

Claim 28, Cristofalo teaches:

wherein the inducement comprises information useful towards the user participating in an interactive program (see paragraph 47).

Claim 29, Cristofalo teaches:

wherein the system controller is further responsive to the metadata corresponding to the audiovisual advertising segment and to the user input from a corresponding user to record a response of the corresponding user to the corresponding audiovisual advertising segment (see paragraph 7).

Claim 30, Cristofalo fails to teach:

wherein the system controller is adapted to provide the recorded response to a revenue calculating module. However, Klarfeld teaches said limitation in paragraphs 7. Therefore, the same rejection applied to claim 22 is also applied to claim 30.

Claim 31, Cristofalo fails to teach:

wherein the system controller is further adapted to provide demographic information regarding the corresponding user to the revenue calculating module. However, Klarfeld teaches said limitation in paragraph 247. Therefore, the same rejection applied to claim 22 is also applied to claim 31.

Claim 32, Cristofalo teaches:

wherein the system controller is further responsive to current time of day information to retrieve the plurality of stored audiovisual advertising segments (see paragraph 47).

Claim 33, Cristofalo teaches:

wherein the audiovisual advertisement is displayed to the user during an advertising interval of a program, the system controller being further responsive to subject matter of the program to retrieve the plurality of stored audiovisual advertising segments (see paragraph 47).

Claim 34, Cristofalo teaches:

wherein the system controller is further responsive to a record of audiovisual advertisements previously viewed by the user, thereby avoiding repetition of identical audiovisual advertisements (see paragraph 47).

Claim 35, Cristofalo teaches:

wherein the system controller is further responsive to a record of a first advertising segment previously viewed by the user during a first advertising break interval to select a second advertising segment to be displayed to the user during a second advertising break interval (see paragraph 47).

Claim 36, Cristofalo teaches:

wherein the system controller is further responsive to a record of a first advertising segment previously viewed by the user during an advertising break interval of a first channel to select a second advertising segment to be displayed to the user during an advertising break interval of a second channel (see paragraph 47).

Claim 37, Cristofalo teaches:

wherein the retrieved plurality of stored audiovisual advertising segments comprises at least two stored audiovisual advertising segments with substantially equal time spans (see paragraph 35).

Claim 38, Cristofalo teaches:

A method of displaying an audiovisual advertisement to a user viewing a display device coupled to an audiovisual system comprising a storage subsystem, the user having characteristic viewing preferences, the method comprising:

storing audiovisual advertising segments on the storage subsystem, each audiovisual advertising segment having metadata indicative of the audiovisual advertising segment (see paragraphs 7, 34 and 47)

selecting and retrieving a plurality of stored audiovisual advertising segments from the storage subsystem based in response to the metadata and to an interest parameter indicative of an estimated time interval during which the user is predicted to continue viewing the audiovisual advertisement (see paragraphs 7, 34, 47, 50).

Cristofalo determines whether a user's profile (i.e. Kansas state fan) predicts that a user would continue viewing a program and would not change channels (i.e. national championship) in order to target ads during the time interval of viewing said program (see paragraph 50).

dynamically assembling the retrieved plurality of stored audiovisual advertising segments in an appropriate order with the segments sequential to one another to form a complete multi-segment audiovisual advertisement comprising the plurality of stored

audiovisual advertisements segments, wherein each of the segments is directed to a common subject of the complete multi-segment advertisement, the complete multi-segment audiovisual advertisement formed in response to the metadata and to the characteristic viewing preferences of the user, whereby the plurality of stored audiovisual advertising segments is selected to tailor the complete multi-segment audiovisual advertisement to the characteristic viewing preferences of the user (see paragraphs 7, 34 and 47; and

displaying the complete multi-segment audiovisual advertisement on the display device (see paragraphs 7, 34 and 47).

Cristofalo does not teach wherein the metadata is indicative of the length of the audiovisual advertising segment and retrieving a plurality of stored audiovisual advertising segments from the storage subsystem based on the lengths of the stored audiovisual advertising segments. However, Klarfeld teaches that if the program being watched by a viewer contains information regarding the length of the commercial break, the preference agent may select stored ads of the same type (i.e. same viewer's demographic metadata) of appropriate length (i.e. advertising segments) to insert in the allotted time slot (see paragraph 241). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Cristofalo's metadata would include the length of an advertising segment, as taught by Klarfeld in order to synchronize the targeting of ads.

Claim 39, Cristofalo teaches:

wherein the metadata is received in conjunction with the audiovisual advertising segments (see paragraphs 47).

Claim 40, Cristofalo teaches:

wherein storing the audiovisual advertising segments comprises storing the metadata on the storage subsystem (see paragraphs 47).

Claim 41, Cristofalo teaches:

wherein selecting and retrieving a plurality of stored audiovisual advertising segments comprises:

identifying the user (see paragraphs 7, 34 and 47);

providing the characteristic viewing preferences of the user, providing the metadata corresponding to the stored audiovisual advertising segments (see paragraphs 7, 34 and 47);

determining which stored audiovisual advertising segments are compatible with the characteristic viewing preferences of the user (see paragraphs 232-241); and

retrieving compatible stored audiovisual advertising segments from the storage subsystem (see paragraphs 7, 34 and 47).

Claim 42, Cristofalo teaches:

wherein providing the metadata comprises retrieving the metadata from the storage subsystem (see paragraph 47).

Claim 43, Cristofalo teaches:

wherein providing the metadata comprises analyzing the stored audiovisual advertising segments using a recognition module (see paragraphs 34 and 47).

Claim 44, Cristofalo teaches:

wherein determining which stored audiovisual advertising segments are compatible comprises comparing the metadata for each stored audiovisual advertising segment to a user profile comprising the characteristic viewing preferences of the user (see paragraphs 34 and 47).

Claim 45, Cristofalo teaches:

wherein determining which stored audiovisual advertising segments are compatible comprises responding to at least one presentation directive of the metadata to determine which stored audiovisual advertising segments are eligible for display (see paragraphs 34 and 47).

Claim 46, Cristofalo teaches:

wherein retrieving compatible stored audiovisual advertising segments is performed prior to responding to the presentation directive to determine which stored audiovisual advertising segments are eligible for display (see paragraphs 34 and 47).

Claim 47, Cristofalo teaches:

wherein retrieving compatible stored audiovisual advertising segments comprises retrieving only compatible stored audiovisual advertising segments which are scheduled for display (see paragraphs 47).

Claim 48, Cristofalo teaches:

wherein retrieving compatible stored audiovisual advertising segments comprises retrieving default audiovisual advertising segments (see paragraphs 47).

Claim 49, Cristofalo teaches:

wherein dynamically assembling the retrieved plurality of stored audiovisual advertising segments comprises:

determining which stored audiovisual advertising segments to schedule for display (see paragraph 47); and

dynamically assembling the scheduled audiovisual advertising segments to form the advertisement (see paragraphs 7, 34 and 47).

Response to Arguments

4. Applicant's arguments filed 01/09/2009 have been fully considered but they are not persuasive. The Applicant argues that the prior art do not teach the user profile comprising an interest parameter indicative of an estimated time interval during which the corresponding user is predicted to continue viewing the audiovisual advertisement. The Examiner answers that Applicant's specification paragraph 39 explain said limitation by disclosing "The preference determination module 60 can generate a user profile 80 comprising an interest parameter which is indicative of an estimated time interval during which the user is predicted to continue viewing a particular audiovisual advertisement 30. In such embodiments, the user input 70 comprises a plurality of viewing decisions which the user previously made when other advertisements 30 were displayed. In response to a displayed advertisement 30, these viewing decisions may be to watch the advertisement 30, change the channel, investigate the EPG information 130, or otherwise ignore the advertisement 30". Cristofalo teaches in paragraphs 34 and 48 that his system may generate user profiles based upon web page hits, user viewing habits (for example, compilation thereof provided by a cable operator or via TiVO unit)

and programming choices. Therefore, in Cristofalo, a user's profile that indicates that a user is a Kansas state fan would predict that a user would continue viewing a national championship football game between Kansas State University and Virginia Tech and said fan would probably be interested in receiving an audio broadcast and advertisements which are oriented towards their team during the broadcasting of said game (see Cristofalo paragraph 50). Therefore, contrary to Applicant's argument, Cristofalo teaches Applicant's claimed invention.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-6720 and fax 571-273-6720. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James W. Myhre can be reached on (571)272-6722. The official Fax number is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/DANIEL LASTRA/
Examiner, Art Unit 3688
March 31, 2009